



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Compliance Activity Report
for actions during May 2006
DISTRIBUTED: June 8, 2006

This report has been prepared to inform the public of certain compliance activities performed in the preceding month. Please contact Peter Carney at (207) 287-4305 or Peter.J.Carney@Maine.gov for additional information regarding the activities listed in this report.

ACTIVITIES PERFORMED

Education and Outreach: The following activities were completed to help the public understand, support, and comply with environmental laws.

Training Provided:

Emissions inventory assistance for composting facilities and landfills: Department Staff are working on conducting emission inventory outreach to composting facilities and landfills. As part of the 2002 National Emission Inventory, EPA published new emission factors for composting facilities. In addition, the DEP lowered the reporting threshold of many of the hazardous air pollutants listed in Chapter 137; in particular, the reporting threshold for hydrogen sulfide was lowered to 200 lbs. The use of new emission factors and lower reporting thresholds for ammonia and hydrogen sulfide results in many composting facilities and landfills being subject to Chapter 137 reporting requirements. This is a continuation of the outreach work the Air Toxics and Emission Inventory group is doing on the emission inventory.

Think Blue partnership between DEP and 36 municipalities wins EPA merit award. A regional competition for an annual environmental merit award was won by the Think Blue Maine partnership. This award was presented by EPA Administrator Johnson to representatives of the DEP and the 36 municipalities in Boston's Faneuil Hall on May 4th. The Partnership has worked over the last several years to dramatically increase public understanding of stormwater pollution as well as implement significant new programs at the municipal level to control stormwater and its impacts. This award is an important recognition of the leading work that Maine is doing on stormwater pollution.

DEP's Green Lodging Initiative take's off. On May 25th a full day workshop for the lodging sector, sponsored by Maine Inn Keepers Association, on Eco-Tourism and strategies for reducing environmental impact was given at the Hilton Garden Inn in Freeport. Department staff presented to over 55 attendees, all of which were either lodging property owners or managers wanting information to reduce impact and potentially become certified under the Environmental Leader logo. Eleven lodging properties are certified and sixteen are ready for verification audits. The environmental audits assess cleaning products, water conservation, waste minimization, recycling and energy use among other items. The intent is to highlight Maine's Green Lodging to tourists and travelers.

Enforcement: The following cases were resolved with violators to: achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; impose penalties that capture any economic benefit gained by the violator; and deter similar actions in the future.

Administrative Consent Agreements Approved by the BEP and AG (violation name followed by location of the violation):



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Varney, Inc., Bangor, Maine. Varney violated Maine's rule for *New Motor Vehicle Emissions Standards* by selling a non-"California-Certified" medium duty passenger vehicle in Maine. To resolve the violation, Varney paid \$500.00 as a civil monetary penalty.

Hartley's, Newport, Maine. Hartley's violated Maine's rule for *New Motor Vehicle Emissions Standards* by failing by selling in a non-"California-Certified" medium duty truck in Maine. To resolve the violation, Hartley's paid \$500.00 as a civil monetary penalty.

Bessey Motor Sales, Inc., South Paris, Maine. Bessey violated Maine's rule for *New Motor Vehicle Emissions Standards* by selling a non-"California-Certified" medium duty truck in Maine. To resolve the violation, Bessey paid \$1,077.00 as a civil monetary penalty.

CBJ Properties, Inc., Naples, Maine. CBJ violated Maine's *Performance Standards for Quarries* by failing to store and handle petroleum products over an impervious surface as well as Maine's *State Oil Discharge Prevention and Pollution Control* law by discharging oil adjacent to, on, or over ground and surface waters of the State without reporting the incidences and immediately removing the discharges. To resolve the violations, CBJ agreed to submit a Spill Prevention, Control, and Countermeasures Plan for review and approval by the Department, perform clean-up and remedial measures, and paid \$3,500.00 as a civil monetary penalty.

P&K Sand and Gravel, Inc., Casco, Maine. P&K violated the provisions of a permit issued under Maine's *Site Location of Development* law by failing to follow spill prevention measures as well as Maine's *State Oil Discharge Prevention and Pollution Control* law by discharging oil adjacent to, on, or over ground and surface waters of the State without reporting the incidences and immediately removing the discharges. To resolve the violations, P&K agreed to perform clean-up and remedial measures and paid \$9,162.00 as a civil monetary penalty.

The Greenford Group, Inc., Milford and Greenbush, Maine. Greenford violated Maine's *Site Location of Development* law by stripping, grading, and not revegetating an area in excess of three acres without first obtaining a permit from the Department, the *Natural Resources Protection Act* by filling, bulldozing, or otherwise altering a freshwater wetland without first obtaining a permit from the Department, and the *Erosion and Sedimentation Control* law by filling, displacing, or exposing soil or other earthen materials without taking measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Following Department involvement at the site disturbed soils had been stabilized with hay mulch. To resolve the violations Greenford agreed to apply for necessary permits or if no permit is obtained submit and implement a restoration plan, attend a Department Non-Point Source Training Center Workshop, and paid \$9,200.00 as a civil monetary penalty.

Pullen Heavy Industries, LLC, Saco, Maine. Pullen violated provisions of a license issued under Maine's *Site Location of Development* law by excavating gravel from below the seasonal high water table in an area approximately 3.63 acres in size. To resolve the violations, Pullen agreed to immediately cease any further gravel mining below the water table unless a license is issued for such activity or if no license is obtained for such activities submit and implement a restoration plan, and paid \$12,810.00 as a civil monetary penalty.

Kevin Maxwell, Lee, Maine. Maxwell violated provisions of Maine's *Natural Resources Protection Act* and *Water Pollution Control* law by operating a gravel pit with a working of more than ten acres without first obtaining a variance from the Department and allowing sediment from a failed stream crossing to discharge into Beaver Brook. As a result of the Department's enforcement action, Maxwell reduced the working area of the pit to ten



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acres in size by grading and seeding approximately five acres. To resolve the violations, Maxwell paid \$2,400.00 as a civil monetary penalty.

District Court Enforcement Resolutions (case caption followed by location of violation):

State of Maine, Department of Environmental Protection v. Gerard Castonguay, Wilton, Maine. Castonguay violated Maine's *Erosion and Sedimentation Control* law, and *Water Pollution Control* law by failing to take measures to prevent unreasonable erosion of soil or sediment while conducting a timber harvest. Furthermore, Castonguay placed slash from the timber harvest in an intermittent stream that flows into Pine Brook, also a violation of Maine law. To resolve the violations, Castonguay submitted a restoration plan to the Department, which was approved, and agreed via a Consent Decree and Order in the District Court in Farmington to implement the restoration plan and pay \$2,520.00 as a civil monetary penalty.

State of Maine, Department of Environmental Protection v. Cyberspin, LLC, Falmouth, Maine. In August, 2000, the Department conducted an investigation of a discharge of tetrachloroethylene at the Cyberspin, LLC d/b/a Crystal Cleaners dry cleaning facility formerly located in the Falmouth Shopping Center. Pursuant to its authority under the *Maine Hazardous Waste Fund*, the Department undertook remediation of the tetrachloroethylene contamination and incurred clean-up expenses in the amount of \$38,779.69. These expenses were paid from Maine's Hazardous Waste Fund. Pursuant to the Department's collection of the amount expended, the parties entered into a Consent Decree and Order in the District Court in Portland by which Cyberspin, LLC reimbursed the Department the amount of \$50,000.00, which included the principal amount and interest.

State of Maine, Department of Environmental Protection v. Lawrence J. Carr Leasing Company, Inc., Cumberland, Maine. In July, 2004, the Department conducted an investigation of a discharge of diesel fuel at the Mile 58 Service Plaza on Route 295 as the result of an accident allegedly involving one of Carr's vehicles and the diesel fuel island at the Mile 58 Service Plaza. Pursuant to its authority under Maine's *Oil Discharge Prevention and Pollution Control* law, the Department undertook remediation of the diesel fuel and contamination and incurred clean-up expenses in the amount of \$5,169.60. These expenses were paid from the Maine Coastal and Inland Surface Oil Clean-up Fund. Following an initial hearing at the District Court in Portland at which Carr failed to appear, the court entered an order, based on Carr's default, finding Carr responsible for reimbursing the Department and ordering Carr to reimburse the Department the amount of \$5,169.60 plus interest and pay the Department \$2,000.00 as a civil monetary penalty.

Superior Court Enforcement Resolutions (violation followed by location of violation):

State of Maine v. Ken Horne; State of Maine v. James Martin; State of Maine v. Maurice Ducharme, Alfred, Maine. These are a series related cases concerning the illegal dumping of hazardous waste on a back road in Alfred, Maine. Prosecution of the cases by the Department of the Attorney General resulted in jail sentences for three individuals involved in the dumping. Horne pled guilty in January 2006 pursuant to an agreement to testify against the two other defendants who were accomplices in the dumping — James Martin and Maurice Ducharme. On April 25, 2006, Horne was sentenced to seven days in jail for the Class D crime of turning hazardous waste over to an unlicensed transporter. Ducharme pled guilty in January to transporting and disposing of hazardous waste without a license and has completed a 45-day jail sentence. On April 24, 2006, James Martin pled guilty to one count of transporting hazardous waste without a license and was sentenced under the terms of the plea agreement to



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three years in prison, all but 120 days suspended, and two years probation. The conditions of probation are that Martin pay \$1,000 to the Department toward cleanup expenses, that he have no contact with the State's civilian witnesses, no use or possession of alcohol or illegal drugs, and that all Department regulations in the operation of Martin's business (Jim's Auto Repair, formerly of Lebanon).

S.D. Warren Company v. Board of Environmental Protection. In a unanimous decision the highest court in the country agreed with Maine and thirty-four other states that hydropower dams must meet state water standards. The hydropower industry challenged the states' regulatory authority in a case titled S.D. Warren Company v. Maine Board of Environmental Protection. Key to the success of this ruling goes to Attorney General Steve Rowe including staff members Paul Stern, Jerry Reid, and Carol Blasi. In 1946 the US Supreme Court originally ruled the Federal Power Act, the nation's law that regulated hydropower projects, pre-empted state regulation. Then in 1972 the Clean Water Act declared that activities requiring federal licenses were subject to state water standards. This ruling reaffirms the states' rights to regulate dams. Based on this ruling, states can continue to require fishways to insure fish passage, set minimum flow releases to prevent river beds from drying up, limit changes to pond levels to protect aquatic habitat and allow construction of boat access ramps to ensure public recreation.

Technical and Regulatory Initiatives: The following actions are targeted to solve specific environmental problems and implement pollution prevention methods in a certain regulated sector and at particular facilities.

No activities reported for this period.